

TEXAS TRANSPORTATION COMMISSION

MONTGOMERY County

MINUTE ORDER

Page 1 of 2

HOUSTON District

On April 26, 2004, Montgomery County submitted a proposal for a pass-through toll agreement. The county's proposal, among other things, provided for the county to construct, maintain, and operate improvements to FM 1485, FM 1488, FM 1314, and FM 3083, and direct connectors from SH 242 and SH 105 to I-45. After the proposal had been received, the scope of work changed to construction only for all of the improvements and the locations of the improvements were modified by removing FM 3083 and SH 105 to I-45 and adding FM 1484.

Section 222.104(b), Transportation Code, authorizes the Texas Department of Transportation (department) to enter into an agreement with a public or private entity that provides for the payment of pass-through tolls to the public or private entity as reimbursement for the construction, maintenance, or operation of a toll or non-toll facility on the state highway system by the public or private entity. A pass-through toll is a per vehicle fee or a per vehicle-mile fee that is determined by the number of vehicles using a facility.

The Texas Transportation Commission (commission) previously adopted rules, codified as 43 TAC §§5.51-5.59, that prescribe the policies and procedures governing the department's implementation of Section 222.104(b), Transportation Code.

Section §5.54 of the commission's rules provide that the commission may authorize the department's executive director or his designee to negotiate a pass-through toll agreement with a public entity after considering the following factors: (1) financial benefits to the state; (2) local public support for the project; (3) whether the project is in the department's Unified Transportation Program (UTP); (4) the extent to which the project will relieve congestion on the state highway system; (5) the potential benefits to regional air quality that may be derived from the project; (6) compatibility of the proposed project with existing and planned facilities; and (7) the entity's experience in developing highway projects.

Pursuant to §5.54, Minute Order 109734, dated July 29, 2004, authorized the executive director or his designee, to negotiate a pass-through toll agreement with Montgomery County. The negotiations have been successful and the department has determined the projects (1) are compatible with existing and planned transportation facilities; and (2) further state, regional, and local transportation plans, programs, policies, and goals.

The department and Montgomery County have agreed to a reimbursement through pass-through tolls of \$174,473,000 for the construction of the projects in their proposal. The per vehicle mile reimbursement rate will be \$.07 per mile. The minimum amount to be reimbursed in any year with all projects open to traffic is \$10,500,000 and the maximum amount will be \$17,447,300. The agreement will expire once the total amount of the agreement has been reimbursed. The county also agrees to reinvest a minimum of \$76,000,000 into future transportation projects selected jointly by the department and Montgomery County.

Before the projects in this proposal are planned, developed, or constructed, the projects: (1) must be included in the HGAC Metropolitan Transportation Plan; (2) prior to construction, must be included in the HGAC Transportation Improvement Program and the department's Statewide Transportation Improvement Program; and (3) will be subject to any and all applicable planning and environmental processes and approvals as mandated by state and federal regulations regarding such

TEXAS TRANSPORTATION COMMISSION

MONTGOMERY County

MINUTE ORDER

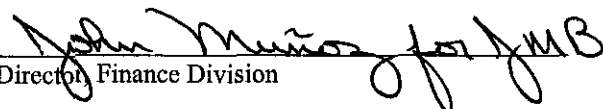
Page 2 of 2

HOUSTON District

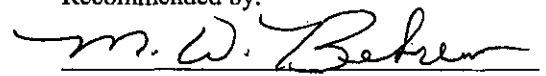
matters. If projects in this proposal are planned, developed, or constructed using funds administered by the department, the projects must also be included in the department's UTP.

IT IS THEREFORE ORDERED that the executive director or his designee is authorized to execute a pass-through toll agreement with Montgomery County in accordance with the negotiated terms and such other terms the department determines are necessary.

Submitted and reviewed by:


Director, Finance Division

Recommended by:


Executive Director

109965 FEB 24 05

Minute
Number

Date
Passed